

B-12



STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE
ACTION OF THE
CIVIL SERVICE COMMISSION**

In the Matter of Steve Cherian,
Department of Human Services

CSC Docket No. 2014-3117

Layoff Appeal

ISSUED: SEP - 4 2014

(RE)

Steve Cherian, a former Human Services Technician with the Department of Human Services, Greystone Park Psychiatric Hospital, appeals his demotion in lieu of layoff to Human Services Assistant at Hunterdon Developmental Center.

By way of background, the Department of Human Services submitted a layoff plan to the Division of Classification and Personnel Management (CPM) to lay off employees in various titles, including employees of Greystone Park Psychiatric Hospital, due to the closure of the North Jersey Developmental Center, effective June 27, 2014. Numerous positions in various titles at several institutions were affected. As a result, a review of official records indicates that, as a result of the layoff of Jean Hylton from her permanent title of Cottage Training Technician at the North Jersey Developmental Center, the appellant was demoted from his permanent title of Human Services Technician to Human Services Assistant at Hunterdon Developmental Center

On appeal, the appellant argues that he would prefer to continue employment at Greystone Park Psychiatric Hospital as a part-time employee. He states that in section E of his Declaration form he indicated he was willing to take a part-time position. He states that during his final interview he was told that Greystone Park Psychiatric Hospital was "full," but he has found out that part-time employees with less State seniority have continued employment there, and he provides the names of three part-time employees with less seniority who are still employed at Greystone Park Psychiatric Hospital.

CONCLUSION

In an appeal of this nature, it must be determined whether CPM properly applied the uniform regulatory criteria found in *N.J.A.C. 4A:8-2.1 et seq.*, in determining layoff rights. It is an appellant's burden to provide evidence of misapplication of these regulatory criteria in determining layoff rights and the appellant must specify a remedy. A thorough review of the record establishes that the appellant's layoff rights were properly determined.

All employees were advised of the layoff and final interview processes and provided with resources to answer questions before the layoff was administered. Each received a 45-day Layoff Notice. Impacted employees were required to attend a general employee briefing, and union representatives were invited to attend, at which the layoff procedure was explained. Next, employees attended a Declaration Form session, which may or may not have occurred at the same time as the general briefing. Each employee received a Declaration Form, which provided information such as what the employee would accept as a layoff right, preference in location, number of working hours and re-employment rights. They were provided with instructions on how to fill out the Declaration form, which included preferences, and they were shown maps of the State indicating agency locations. They were told to review geographical locations, travel distances, transportation options, and lowest salary requirements. When they were given the information regarding their specific title rights, they expressed their choices in priority order of most desirable to least desirable.

On his declaration form, the appellant indicated that he would accept a lateral position in Morris, Somerset, Hunterdon, and Middlesex counties, in that order, and a demotional position in Somerset, Hunterdon and Middlesex counties, in that order. During the interview, his selections were reviewed for availability, and it was found that no lateral positions were available, and no demotional positions in Somerset County were available. As such, the appellant accepted a demotion to Human Services Assistant in Hunterdon County. On appeal, the appellant contends that he was not offered a part-time position at Greystone Park Psychiatric Hospital.

Nonetheless, the appellant was provided the same opportunity as every other employee. Section E of the Declaration form was used to make a decision on the employee's behalf if the employee and the proxy were unavailable. If, during the interview, an employee inquired about a part-time position in lieu of a full-time position and a part-time position was available in the location, it was discussed. The appellant selected the first available full-time position. Employees were informed that they were to make their decisions ahead of time and be prepared to provide their final decision when called for a final interview. If the issue of part-time positions was not discussed at the interview, then the appellant did not

express interest in one. The appellant was free to decide and to change his mind during the interview. However, once an option has been selected at the interview, the appellant cannot, in retrospect, choose a different option. To request a part-time position at this time is, in effect, a change of mind, which is not an option or evidence of a violation of title rights. In the present matter, the appellant has not established any error or evidence of misapplication of the pertinent uniform regulatory criteria in determining layoff rights.

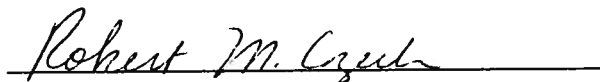
Thus, a review of the record fails to establish an error in layoff process and the appellant has not met his burden of proof in this matter.

ORDER

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 3rd DAY OF SEPTEMBER, 2014



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Henry Maurer
Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

c: Steve Cherian
James Frey
Christina Mongon
Kenneth Connolly
Joseph Gambino